

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 KEVIN KIHNEKE, *et al.*,

11 CASE NO. C21-0011-JCC

12 Plaintiffs,

13 MINUTE ORDER

14 v.

15 LM INSURANCE CORPORATION, *et al.*,

16 Defendants.

17 The following Minute Order is made by direction of the Court, the Honorable John C.  
18 Coughenour, United States District Judge:

19 This matter comes before the Court on Defendants LM Insurance Corporation and  
20 Liberty Insurance Corporation's (collectively "Liberty Mutual") motion to dismiss or  
21 alternatively to transfer venue (Dkt. No. 21). Liberty Mutual argues that Plaintiffs' First  
22 Amended Complaint ("FAC")<sup>1</sup> (Dkt. No. 18) fails to establish the Court's diversity jurisdiction.  
(See Dkt. No. 21 at 13–14.) Specifically at issue is the FAC's failure to affirmatively plead Mr.  
23 Kihneke's citizenship. (*Id.*)

24 <sup>1</sup> Plaintiffs filed a First Amended Complaint (Dkt. No. 18) on February 22, 2021 and then  
25 refiled the First Amended Complaint (Dkt. No. 19) on February 23, 2021. Plaintiffs represent to  
26 the Court that the documents are identical. (Dkt. No. 24 at 13 n.5.) For purposes of this order all  
references to Plaintiffs' complaint are to the First Amended Complaint filed on February 22,  
2021 (Dkt. No. 18), which the Court currently views to be the operative complaint for purposes  
of Liberty Mutual's motion.

Liberty Mutual is correct. Plaintiffs must affirmatively plead each party’s citizenship to support the Court’s jurisdiction in this alleged diversity action. *See* W.D. Wash. Local Civ. R. 8(a); *see also Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). However, Plaintiffs suggest this deficiency can be easily cured through a “one-word amendment, if necessary” and seek leave to do so. (Dkt. No. 24 at 18–19.)

Plaintiffs' request is GRANTED. They may amend the complaint *solely* for purposes of establishing diversity jurisdiction. *See* 28 U.S.C. § 1653. The amendment is due April 12, 2021. If Plaintiffs choose to amend, Liberty Mutual need not renew its motion to dismiss or transfer venue (Dkt. No. 21). The Court will, instead, consider the motion in light of a second amended complaint.

The Clerk is DIRECTED to renote Liberty Mutual's motion to dismiss or alternatively transfer venue (Dkt. No. 21) for consideration on April 12, 2021.

DATED this 7th day of April 2021.

William M. McCool  
Clerk of Court

s/Paula McNabb  
Deputy Clerk